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SUBJECT: Medvedev's Anti-Corruption Package: Two Views

¶1. (SBU) Summary: Transparency International Director Yelena Panfilova praised President Medvedev's anti-corruption bill that was signed into law on December 25 as an "extremely valuable" first step, while recognizing the deep flaws in its content and how it was promulgated. Arguing that waiting for the perfect legislation had left Russia without a legal definition of corruption for the last 15 years, Panfilova said the focus should now shift to formulating a national anti-corruption strategy, defining the implementing instruments for the bill, and establishing a legal concept of "public servant," with the U.S. one possible source of assistance on developing a governmental code of ethics. Taking a more skeptical view, prominent TV and radio personality Vladimir Solovyev detailed the blowback to his public campaigns against corrupt officialdom, concluding that the economic crisis was likely to exacerbate corruption, with perhaps "revolutionary" effect. In meetings with Russian officials and NGO leaders, we will examine additional opportunities for targeted U.S. assistance in supporting the anti-corruption legislation. End Summary

Welcome the Bill; Improve its Quality  
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¶2. (SBU) Transparency International Director Yelena Panfilova urged us on December 30 to welcome the fact of the anti-corruption measures, signed into law by President Medvedev on December 25 after they passed their third reading by the Duma on December 19, while reserving judgment on their quality. Medvedev's initiative, she stressed, was "extremely valuable," because it provided Russia for the first time with a legal definition of corruption and a basis for legislators and activists to further refine anti-corruption laws. The bill signed by Medvedev, which includes 25 amendments to current laws, aims to define, prevent, and reduce corruption by: increasing public control over and transparency of government functions, promulgating new disclosure requirements and tightening restrictions on gratuities, facilitating whistle-blowing, instituting new requirements to enhance the independence and quality of judges, and increase the criminal liability and administrative sanctions for corruption.

¶3. (SBU) Panfilova made no excuses for the process used by the Kremlin to pass the legislation and publicly has spelled out the legislation's deficiencies. Noting there was as much opportunity for outside experts or Duma members to influence the legislation as there was in "stopping an avalanche," Panfilova nevertheless insisted that "something was better than nothing" and that "Russia had been waiting for the perfect anti-corruption legislation for 15 years." Among the bill's deficiencies, Panfilova iterated: its vagueness (including its silence on which agency will serve as the coordinating body, and apparent exclusion of state corporation employees), financial-based definition of corruption (excluding "non-material" blandishments such as favors, job promotion, access, etc) and absence of provisions for prosecuting transnational corruption (although the legislation calls on Russia to join all international efforts), lack of implementing instruments, and failure to define "public trust" or "public service." Despite the bill's flaws, Panfilova noted with satisfaction that it was sufficient to set nerves on edge, with Medvedev forced to publicly chastise Duma members over attempts to gut the legislation, including a stillborn initiative to delay its implementation by two

years. (As passed, the bill's financial reporting requirements start in 2009, which mean that the first forms will be filed by officials in January 2010 for the previous year.)

14. (SBU) Concluding crisply that "what's done is done," Panfilova outlined a three-pronged approach to ensure the bill is adequately implemented:

-- Formulate a national anti-corruption strategy: While the legislation refers to a strategy, none has been promulgated, which in a December 6 meeting the Council of Europe's Group of States Against Corruption (GRECO) gave Russia 18 months to complete.

-- Define the implementing instruments: None of the mechanisms specified in the legislation yet exist, including the monitoring bodies, the legal instruments, or even the forms for officials to complete. While Medvedev used meetings with FSB Director Bortnikov and General Procurator Chaika to impress upon them the importance of enforcing the new bill, Panfilova noted that coordination of the legislation could fall to a host of other agencies, including the Ministry of Justice, MVD, or Presidential Chief of Staff Naryshkin (in his capacity as chair of Medvedev's anti-corruption committee).

-- Establish the concept of "public trust" and "public service:" The legislation bases its punishment on violations of the public trust by public workers; however, Russian laws don't define that term, with public employees referred to by their specific job function (e.g., militia, health worker). By defining who constitutes a state worker, the lacunae of exempting state corporation employees can also be closed. Panfilova said the U.S. could play a role in educating Russian legislators about its concept of ethics in government service and the mechanics of enforcing the

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legislation, although acknowledging that opponents of the anti-corruption legislation had painted it as an initiative of "outside forces." Noting that she would be in the U.S. on an Eisenhower Fellowship in the spring to consult on this issue, Panfilova said that an initial ruling party draft was "hilarious" in conflating loyalty to United Russia with sound public morals.

Ground Realities Remain Grim  
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15. (SBU) A December 23 meeting with prominent radio and television personality Vladimir Solovyev (ranked the 25th most influential person in Russia by Kommersant for his political show "To the Barrier," public appearances, and books) provided a reminder of the ground realities of battling corruption. Seating himself with his back to the restaurant window ("so I won't see them when they shoot me"), Solovyev presented a dark, if self-flattering, portrait of fighting corruption in Russia. His reward for hounding Chair of the Moscow Arbitrazh Court Lyudmila Maykova, he argued, was her reappointment, the cancellation of his other television program "Sunday Evening with Vladimir Solovyev," pressure from his radio station's owner to tone down his anti-government criticism, an increase in death threats against himself and family members, continued tailing and telephone monitoring, and "pranks" such as the throwing of paint and oranges both during and after his public performances. The fact that he continued to have allies in high places ("Putin has supported me until now") accounted for his continued freedom, he maintained.

16. (SBU) Solovyev, who recently has engaged in a high level crusade against Transport Minister Levitin for his conflict of interest in sitting on the Aeroflot Board and heading the Sheremetyevo airport while determining the fate of government subsidies to rival airlines, posits a leadership environment where Putin is chary of anti-corruption efforts. While not directly thwarting Medvedev's initiatives, Putin's loyalty to cronies or protection of his own interests, is exploited by others to weaken or render still-born real efforts to limit feeding at the government trough. (While insisting that his white knight reputation was deserved, Solovyev was clearly on the defensive over leaked transcripts of his cell phone conversations, suggesting that his radio attacks on corrupt officials were rewarded with favors or

compensation from the victims' bureaucratic or economic rivals. Solovyev maintained the improbable line that he had purposely held the suggestive conversations in order to lure the "services" into publishing the transcripts, thereby "proving" his charges that he had been monitored all along. "You'll hear more nasty stuff about me," was his parting comment at the end of the meeting.)

17. (SBU) The lack of transparency, Solovyev charged (and Panfilova agreed) would become increasingly politically salient as the economic crisis deepened. Russians, Solovyev argued, for the first time "have something to lose" in an economic contraction, unlike in the 1990s, creating a "revolutionary" atmosphere. Reflecting upon Rosnanotech Director and former Deputy Prime Minister Anatoliy Chubais' public speculation that Russia had a 50-50 chance of coming out of the economic crisis without fundamentally changing the political and economic system developed over the last 15 years, Solovyev countered that the "economy is dead" and the leadership already panicked. Despite the anti-corruption legislation, he maintained, the increased role of the state in resolving the economic crisis and meting out subsidies to critical sectors of the economy was likely to accelerate the spread of corrupt practices.

Comment

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18. (SBU) Medvedev's albeit imperfect anti-corruption package provides an opening for targeted U.S. technical assistance. Post has previously provided examples of US and foreign conflict of interest legislation and regulation to members of the President's Anti-Corruption Commission and has organized roundtables on various anti-corruption topics, in addition to supporting the work of Transparency International. We will continue to explore ways to work with the Public Chamber, Duma, NGOs, law enforcement agencies, and the Presidential anti-corruption committee, as Russia refines its legislation. Specifically, we anticipate conducting programs on corporate raiding and transnational bribery this spring. Ambassador Kislyak's earlier solicitation of Washington consultations on combating corruption by members of the Presidential Administration reflects the high-level Russian interest in working with the U.S., which we should capitalize on.

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